IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1284 OF 2007
IN
SUIT NO.1694 OF 2007

Mir Mozam Ali ....Plaintiff
V/s.
Yusuf Munir Shaikh & Ors. ....Defendants
And
Nalanda Co-op.Hsg.Soc.Ltd. ....Applicant

Mr.A.A. Siddiquie for the Plaintiff.

Mrs.Anjali N. Helekar for the Applicant.

Mr.P.K. Gautam for Defendant No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 10TH OCTOBER, 2007.

P.C. :

1. The Applicant seeks to be impleaded as a Defendant. The suit is filed for specific performance of an alleged agreement for sale of the flat by Defendant No.1 to the Plaintiff. Defendant No.2 is the brother of Defendant No.1. Defendant Nos.3 and 4 are the members of the family of Defendant No.2. It is alleged that Defendant Nos.2 and 3 are presently in occupation of the suit flat.

2. The Applicant is the society in which the said flat is situated. According to the Applicant,

the sale is subject inter-alia to the permission being obtained from the Bombay Municipal Corporation as well as from the Applicant itself. It is further alleged that the agreement annexed as Exhibit "C" to the plaint does not contain the genuine document. For instance,it is contended that the alleged permission given by Kapadia Nagar Welfare Association is fabricated. It is further contended that the said document does not form a part of the agreement itself but was illegally substituted in place of another document.

3. It is not necessary to consider the merits of the rival contentions. It is agreed by the learned counsel for the Plaintiff and the Defendant and it is also ordered that the orders passed in this suit interim or final shall not affect the rights of the Applicant in any manner whatsoever. If and when the permission is applied for to the Applicant, the Applicant will be entitled to deal with the same in accordance with law. It is also clarified that the orders passed in this suit will not affect the rights of the Applicant in the proceedings pending before the Co-operative Tribunal.

4. Needless to state that the rights of the

Applicant are thereby completely protected and will not be affected in any manner whatsoever merely by virtue of not being impleaded in this suit. Needless to state that the Plaintiff will not be entitled to enforce the alleged agreement or any rights thereunder including by way of possession without first seeking the permission of the Applicant.

5. The Chamber Summons is accordingly disposed of.